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SPECIAL PROGRAMS OFFICE
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In re Application of
Axel Ullrich, et al
Serial No. 07/975,750
Filed: November 13, 1992
Attorney Docket No. 7683-009

: REQUIREMENT FOR INFORMATION
: RE PETITION UNDER 37 CFR
: 1.48(a)

This is in response to a petition under 37 CFR 1.48(a) filed May 27, 1993, requesting that the name of the inventors in the application be corrected. The petition is being decided by the undersigned rather than in the examining group so that application processing, including the issuance of a filing receipt, may proceed with the actual inventors being named in the application.

The instant application was filed on November 13, 1992, pursuant to 37 CFR 1.53(b) without an executed oath or declaration under 37 CFR 1.63 and named as the inventors: Ullrich and Risau.

Application Processing Division mailed a Notice to File Missing Parts of Application under 37 CFR 1.53(b) on January 7, 1993, requiring an oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late submission.

In response to the Notice to File Missing Parts of Application, applicants timely filed on May 27, 1993 (with a petition and fee for a four month extension of time under 37 CFR 1.136(a)), inter alia, the instant § 1.48(a) petition and fee, the surcharge, a combined Declaration under 37 CFR 1.63 and Power of Attorney, a verified statement of facts by the original named inventors and a written consent of assignee.

The petition and verified statement of facts state that an error occurred in failing to name Millauer as a co-inventor, that the error resulted from miscommunication with counsel, that counsel could not contact the original named inventors regarding inventorship and that the error was discovered after the application was filed.

The unverified written consent of the assignee is defective in that it was executed by a party identified as Head, Patent Department, a corporate officer that is not normally considered as having the authority to bind the corporation. Additionally, the written consent must comply with the requirements set forth in 37 CFR 3.73(b) Establishing right of the assignee to prosecute.

Accordingly, a new consent is required either by a corporate officer normally considered as having the authority to bind the corporation (e.g., President, Vice President, Treasurer or Secretary) or by some other person and accompanied by proof that the party signing on behalf of the corporation, in fact, has the authority to sign for the corporation. Alternatively, proof of the authority to bind the corporation on behalf of the party who executed the previously filed consent, Dr. Kuhn, can be submitted (verified statement of authorization). Additionally, to comply with 37 CFR 3.73(b), documentary evidence of the chain of title and a statement specifying that the evidentiary document has been reviewed, in addition to the supplied certification that title is in the purported assignee, are required (a copy of an appropriate format is attached).

Accordingly, the petition under § 1.48(a) to correct the inventorship cannot be granted at this time.

Receipt is acknowledged of a December 23, 1992 Information Disclosure Statement.

Applicants are given TWO MONTHS from the date of mailing of this Requirement for Information to correct the above noted deficiencies (written consent of assignee and § 3.73(b) certification). Failure to respond completely to the Requirement will result in abandonment of the application. The time for response, however, may be extended by compliance with the provisions of 37 CFR 1.136(a).

The reply to this Requirement for Information should be addressed to the undersigned at the Office of Special Program Examination, Crystal Park 2, Suite 923.



Hiram H. Bernstein
Special Program Examiner
Office of Special Program Examination
Office of the Assistant Commissioner for Patents

Attachment: § 3.73(b) certification